

**ARIZONA STATE PARKS BOARD  
1300 W. WASHINGTON STREET  
PHOENIX, AZ  
NOVEMBER 16, 2006  
MINUTES**

**Board Members Present**

William Porter, Chairman  
William Cordasco  
William Scalzo (arrived at 12:55 p.m.)  
Reese Woodling  
Elizabeth Stewart  
Mark Winkleman

**Staff Present:**

Kenneth E. Travous, Executive Director  
Jay Ream, Assistant Director, Parks  
Jay Ziemann, Assistant Director, Partnerships and External Affairs  
Mark Siegwarth, Assistant Director, Administration  
Debi Busser, Executive Secretary

**Attorney General's Office**

Joy Hernbrode, Assistant Attorney General  
Patricia Boland, Assistant Attorney General

Chairman Porter stated that before calling the meeting to order, he noted that there is a signing ceremony to be done that has been a while in coming and is very important to him. He called Mr. Travous forward to sign the final version of the agreement between the Arizona Historical Society and Arizona State Parks (ASP) for cooperation between the two organizations. Mr. Travous affixed his signature to the documents (one for each agency).

**A. CALL TO ORDER - ROLL CALL – 9:00 A.M.**

Chairman Porter called the meeting to Order at 9:07 a.m.

**B. INTRODUCTIONS OF BOARD MEMBERS AND AGENCY STAFF**

The Board members had introduced themselves during the Roll Call. Staff introduced themselves.

**C. CONSENT AGENDA**

- 1. Approve Minutes of October 19, 2006 Arizona State Parks Board Meeting**
- 2. Consider Extending the Project End Date for Trails Heritage Fund, Project #680211 – Tonto NF – Seven Springs Interpretive Trail Development** – Staff recommends extending the project end date by 12 months to December 30, 2007 for the Trails Heritage Fund Project #680211, Tonto NF – Seven Springs Interpretive Trail Development. At their October 12, 2006 meeting AORCC concurred with the staff recommendation.
- 3. Consider Extending the Project End Date for Land and Water Conservation Fund (LWCF) Project #04-00700 – Riverfront Gateway Park** – Staff recommends extending the project end date by 12 months to November 1, 2007 for LWCF project #04-00700 – Riverfront Gateway Park.

4. **Consider Extending the Project End Date for Local, Regional, and State parks (LRSP) Project #650201 – Riverfront Park Expansion Project** – Staff recommends extending the project end date by 12 months to November 19, 2007 for LRSP project #650201 – Riverfront Park Expansion.

Ms. Stewart stated she had changes to the Minutes of the October Board meeting:

On page 4, third paragraph, third line, “the Board needs to be getting a return on it and should be communicating that.” Insert the word in the new sentence, “If the Board does not have the ability to monitor itself the Board should contract with a third party that would monitor all these properties the Board plans to turn over to other entities for day-to-day management to keep the same level of protection all along the properties. The lessee should be responsible for the cost of that monitoring.”

On page 5, third paragraph from the bottom, insert at the beginning “turning property over informally”.

On page 19, third line from the bottom, the blank should be “Tina” Rose.

Dr. Ruyle’s name needs to be corrected.

Mr. Cordasco made a motion to accept the Consent Agenda, including the Minutes as corrected.

Ms. Hernbrode noted that Dr. Ruyle’s name is misspelled and will be corrected.

Mr. Woodling seconded the motion and the motion called unanimously.

#### **E. BOARD ACTION ITEMS**

1. **Proposed 2007 Parks Board Meeting Schedule** – Staff recommends that the Board approve the proposed meeting schedule for calendar year 2007.

Mr. Cordasco referred to page 16 of the Board Packet. He noted that the majority of the meetings are proposed to be held in Phoenix. He noted that, because the 50<sup>th</sup> Anniversary celebrations will be taking place in many parks across the state during 2007, staff and Board members will crisscross the state during the year. With that in mind, it seemed that Phoenix would be the place to meet so that everyone could get home for a little while. The Tonto Natural Bridge State Park would be the meeting place in July. Red Rock State Park seemed to be an appropriate place to have met this past Fall. He is leaving that as a possibility as well. The meetings will begin at 10:00 a.m. That time seems to fit a little better for those coming in from other parts of the state to avoid the traffic jams.

Mr. Woodling asked if seven meetings if enough and, if a situation comes up, can the Chairman call a meeting and how much time would be needed to call a meeting.

Ms. Hernbrode advised that, per the Open Meeting Law, the Agenda must be posted 24 hours in advance of the meeting. That means staff needs time to get the Agenda drafted. In an absolute emergency, it can be done in 28 hours if necessary. Three or four days is more realistic.

Ms. Stewart added that there is an issue with getting a quorum and getting a packet out in a timely manner.

Mr. Cordasco responded that he would hope that something like that would be to approve a purchase of a park or something similar.

Mr. Cordasco added that it seems that next year, with the 50<sup>th</sup> Anniversary, that staff will be busy with a lot of additional activities. This schedule seemed to fit. He doesn't see why this isn't an appropriate schedule for 2007 if the Board would stay focused on strategy in the future and be efficient in discussing updates.

Ms. Stewart asked if Mr. Cordasco planned for the meetings going from 10:00-1:00.

Mr. Cordasco responded affirmatively. There were times over this past year where the Board adjourned earlier than they thought they would. Because of the benefits of moving the schedule to 10:00 a.m., he's not sure that adjourning at 1:00 p.m. will compromise much regarding what people have going on in the day.

Mr. Travous noted that if the Board wishes, staff could bring in sandwiches or something for lunch.

#### **Board Action**

**Mr. Winkleman:** I move the Arizona State Parks Board adopt the Proposed Schedule for 2007.

Mr. Woodling seconded the motion and the motion carried unanimously.

- 2. Appoint New Members to the Historic Preservation Advisory Committee (HPAC)** – Staff recommends that the Board appoint Bonnie Bariola and Tami Ryall to fill two of the vacancies on HPAC and that they serve three-year terms beginning January 1, 2007.

Mr. Ziemann noted that he distributed a new report this morning and that it does not change anything but offers additional clarification from HPAC's meeting. They were not able to meet until November 13.

Ms. Stewart asked if some of the members are leaving to make room for the new appointees and if there will still be one vacancy.

Mr. Ziemann responded affirmatively.

#### **Board Action**

**Ms. Stewart:** I move that Bonnie Bariola be appointed to fill the non-profit Preservation vacancy for a three-year term, that Tami Ryall be appointed to fill the Citizen-at-Large vacancy for one-year and may serve their terms beginning January 1, 2007.

Mr. Cordasco seconded the motion and the motion carried unanimously.

- 3. Appoint New Members to the Arizona State Committee on Trails** – Staff recommends that the Board appoint Cate Bradley, Erik Wilson, John Vuolo, Anne Ellis, Irene Smith, David Troutner, Steve Saway, and Carrie Miracle-Jordan to fill the vacancies in ASCOT and that they each serve a three-year term, Linda Slay to serve a one-year term, and Charlie Scully and Irene Smith to each serve two-year terms beginning January 1, 2007.

Mr. Ream stated he agrees with staff's recommendation.

**Board Action**

**Ms. Stewart:** I move that the Board appoint Cate Bradley, Erik Wilson, John Vuolo and Anne Ellis be appointed to fill the Government Agency vacancies; David Troutner, Steve Saway, and Carrie Miracle-Jordan be appointed to fill the User Group vacancies in ASCOT and that they serve a three-year term beginning January 1, 2007 and that Linda Slay fill the one-year User Group vacancy and that Charlie Scully and Irene Smith fill the two-year terms for User Group and Citizen-at-Large, respectively beginning January 1, 2007.

Mr. Woodling seconded the motion and it carried unanimously.

- 4. Appoint Members to the Natural Areas Program Advisory Committee (NAPAC)** – Staff recommends that the Board appoint H. Sheridan Stone, Kenneth Kingsley, Phyllis Hughes, and Don Young be appointed to fill the vacancies on NAPAC and that they each serve a three-year term beginning January 1, 2007, except for Don Young, who will serve a two-year term.

Mr. Ream reported that the applicants for NAPAC were the most impressive résumés and biographies he had ever read of people applying for a position with an advisory committee. The amount of knowledge of these people is extraordinary – even those not selected. He concurs with the staff's recommendation.

Ms. Stewart added that she was also impressed and hoped that staff and NAPAC would encourage involvement by those who are not appointed to participate in subcommittees and other NAPAC activities. This is a committee that will have vacancies in the future. It's nice to have a pool of people who are up-to-speed on what's going on.

**Board Action**

**Ms. Stewart:** I move that H. Sheridan Stone, Wildlife Biology from Cochise County, Kenneth Kingsley, Entomology from Yavapai County, Phyllis Hughes, Attorney-at-Law, Maricopa County, and Don Young, Water Resources Administration, Maricopa County, be appointed to fill vacancies on NAPAC and that they serve a three-year term beginning January 1, 2007 with the exception of Don Young who will serve a two-year term.

Mr. Cordasco seconded the motion and it carried unanimously.

Ms. Hernbrode clarified that Ms. Hughes and Mr. Young previously worked in the Attorney General's Office. Mr. Young was part of their Water Rights section. Ms. Hughes formerly represented ASP.

Ms. Stewart noted that she has formerly worked with both of them and they are very qualified.

Chairman Porter called for a vote on the motion on the floor. The motion carried unanimously.

- 5. Appoint New Members to the Off-Highway Vehicle Advisory Group (OHVAG)** – Staff recommends that the Board appoint Pete Pfeifer and Drew John to fill the vacancies on OHVAG and that they each serve a three-year term

beginning January 1, 2007.

Mr. Ream stated that he concurs with the staff's recommendation. He added that the résumés were very comprehensive and provided a very difficult task for staff to sort through. Everyone is qualified.

### **Board Action**

Ms. Stewart: I move that Pete Pfeifer, representing the American Motorcycle Association from Pima County, and Drew John, representing Gila Valley ATV Riders from Graham county be appointed to fill vacancies on OHVAG and that they serve a three-year term beginning January 1, 2007.

Mr. Woodling seconded the motion and it carried unanimously.

Chairman Porter then moved to Agenda Item F.1.

## **F. DISCUSSION ITEMS**

- 1. Off-Highway Vehicle Advisory Group (OHVAG) presentation.** The OHVAG will provide an overview of the OHV Program's current activities and accomplishments.

Mr. Drew John addressed the Board. He is the Chairman of the OHVAG. The reason he wanted to speak with the Board is to give an update on what they've been doing. He is from Safford, AZ. They've been spending most of their time on the ATV portion of OHV because it is the one with the tremendous growth that's going on and causing a lot of problems as well. It needs management, as well as all of the OHVs. One of the biggest things they worked on is ATV safety (gear education, proper riding skills, and riding etiquette). Another project was creating maps and brochures for better training and understanding the maps and regulations of the land they're riding on. There are no chalk lines in the middle of the desert they are riding on. They are trying to get people to realize that there is a map that tells them when they're on State land, when they're on BLM land, etc.

Mr. John reported that another project OHVAG has been working on with staff is trying to help the dealers stay more involved. He is a small dealer in Safford. It is a little easier in a small town to stay involved. They have been working on a Customer Title and paperwork folder that all dealers can put documents in to give to the new purchaser. One of the items they've come up with is to place flyers and brochures in those folders on safety, education, tread lightly, environmental issues, etc., so the dealers can put this paperwork in folders so when the customers leave they will have their title work and this information. OHVAG's hope is that the dealer will tell them there's a lot of brochures in the folder that is very important they read. It is currently a pilot program that they think will work quite well.

Mr. John added that they are working very hard on not only getting projects started, but getting them completed as well. Many times in the past projects have been started with grant money but died out and never got finished. Their goal is to get more completed projects on the ground. The group felt strongly that all the laws and regulations in the world can be made but until there are some designated areas and trails for these people to go, we're just spinning our wheels.

Mr. John stated there is very strong support for a motorized state park. It would be important to have grant money available to give people places to ride. The grant monies that have been available from the Board have been very important for authorizing the use of those grants to keep going on projects. We are behind the eight ball right now. ATVs have experienced crazy growth. Just his small dealership sells 500-600 per year. One can only imagine what the big-city dealerships sell. Unfortunately, one cannot ride them in cities, so they go elsewhere to ride.

Mr. John reported that the OHVAG has been working on the OHV legislation that is probably better known as the Copper Sticker Program. Game and Fish has been working on this legislation with the help of others. There has been good input provided over the past two years. Quite a few OHVAG members have alternated to be on the legislative committee. He and others have remained very involved in the composition of this bill. It crashed and burned last year. The issue with the legislature has always been creating more funding for on-the-ground projects such as designated areas, law enforcement, education, etc. The other issue is to clarify and create regulations that are enforceable and better understood by the users and consistent for all landowners – both public and privately-owned – basically a seamless regulation regardless of what land one is riding on. Another is to preserve the environment and help repair past damages. Another is to preserve the riding privileges they currently enjoy and do a better job of managing those privileges. Those are the main goals for the OHV legislation.

Mr. John noted that Game and Fish and members of the legislative committee have almost completed the public outreach portion of this draft. They will take the comments back to the subcommittee who will, in turn, tweak the draft to better suit the public from the comments that were taken. The subcommittee will meet on the 29<sup>th</sup> and the last outreach meeting is tonight in Safford for Graham County. It will be the first forum he will actually sit through. Attendance has not been what it should be. He understands that this goes into the legislation and changes the law. If one looks at last year's version that they finally came out with, it did not do a thing. They tore it apart to the point where not one goal was being accomplished. Most of the OHVAG members have a good relationship with at least two or three legislators. OHVAG has kept a very close eye on this legislation and had great input from it.

Mr. John noted that, from public input, it has not been well-accepted. Most people are OK with straightening out the regulations and create a seamless regulation through statute or whatever needs to be done. The other part is trying to raise the gas tax percentage. He visited with Senator Jake Flake personally on that issue. Senator Flake feels good about it. He's been getting a lot of calls lately since the outreach meetings are going on and they have not been favorable. Senator Flake is leaning towards the other direction. We need to get trails designated; we need to get places where people can ride and know where they're supposed to ride. Currently, police stop people and tell them they can't ride here but cannot tell them where they can ride.

Mr. John thanked the Board for their time today.

Ms. Stewart asked if they provide any orientation or training to the dealers.

Mr. John responded that they don't do that yet. A lot of the larger dealers who actually do most of the volume have a scientific training program for the sales people.

Mr. Travous noted several observations. One is that currently \$700,000 a year that should be going to OHVAG is still being diverted through the budgetary process to operate state parks. They keep changing the law in order to not use General Funds so they diverted \$700,000 of the money that could be going to OHV. That is something has been discussed that needs to change. Another is that he has worked in states that have a sticker program. One has to be careful that the money generated by a sticker program isn't then used to enforce the sticker program (going out searching for people who do not have stickers). That becomes a self-defeating program. A third point is that the legislature can raise the gas tax level, but that doesn't prevent them in the next year from dropping it back down. How can you, for instance, raise a tax on one hand and then divert \$700,000. It just gives them more money to divert. Staff have been watching it closely. Additionally, in the final analysis all the education really goes down the tubes when someone like GM has a "Rogue \_\_\_\_\_ (Schmogue??) campaign. He spoke to people from GM. He was told that, basically, they get an inventory of ATVs that they have to sell. The people in Detroit don't care what the message is, they know they have an inventory so they plan campaigns that show you going flat out across the desert. It is difficult to overcome that much money. It is not all at the dealership level; it's the corporate level where they put the big money into their advertising and destroy any education because they have the money.

Mr. Ziemann added that he worked extensively on this legislation last year. He commended the OHV community. This is a very contentious issue with a lot of different opinions. It's surprising how many people in the legislature, OHV community around the state, and the natural resources agencies want to spend some time working on these issues. The dealerships they talked to, for the most part, are very amenable to putting things in and running programs through, etc. There are a lot of different opinions, but everyone is willing to come to the table and work through those issues. Where it gets troublesome is the fact that the bottom line is they need more money to run the program. The \$2 million that was established in 1989 is not anywhere near sufficient today. Money must be raised. The difficulty in raising the tax is that if you're increasing state revenues then 2/3 of the legislature must agree to do it. Raising taxes is not the reason most of those people got elected to office. Last year they talked about increasing money in some areas but then taking the money from our budget. That didn't work. The bottom line is they need to come up with more money.

Mr. Woodling asked Mr. John to review what the topic is that is being discussed.

Mr. John responded that the plan was to stress the legislation itself, the bill draft, and talk about what the Copper Sticker Program is (what it will go toward, etc.). A lot of time has been put into this project. The formula was to keep it from being a political issue. The money was devised by formula so it couldn't be messed up by whoever runs it. The biggest problem is that it's perceived as a new tax. Everyone realizes we need more money.

Mr. Winkleman asked what the prognosis is for this next session.

Mr. Ziemann responded that it is an uphill battle. Last session they had prime sponsors on the bill – Jake Flake and President Bennett. They've done their homework in getting the right people in the legislature to move it. He doesn't think any of that has changed. On such a contentious issue and one that they know they need to raise more state revenues for, it is surprising that they get the support from the legislature that they do.

Ultimately, though, they're asking 2/3 of these people to cast a vote to do this kind of thing. That's where the problem is. It won't be any easier this session.

Mr. John thanked the ASP staff for all the hours they put in, along with the OHVAG group for meetings and getting the information the OHVAG needed. He thanked the Board for the time allotted to him.

Chairman Porter thanked Mr. John for coming to the meeting and updating the Board on their activities.

Chairman Porter moved to Agenda Item F.7. He noted there were a number of people who wished to speak on this issue and asked that they keep comments short and to-the-point. He pointed out that ASP has taken a very strong position of concern about this item and have asked the Board of Supervisors to hold off until it can be better studied. The Board recommended strongly that if they cannot wait to vote that they deny both of these applications.

#### **7. Pinal County General Development Plan Issue – Picacho Peak SP – Red Rock, AZ**

Mr. Michael Worth addressed the Board. Mr. Worth distributed information to the Board. He is co-owner of the Picacho Peak RV Park, which is across the street from the proposed switching yard. He grew up in Mesa and is aware of their growth, as well as Apache Junction. His main concern is the lack of information that's been given to the public. They requested a meeting with the advisory committee since September and have not had one meeting to date. They are concerned about the canal water, the habitat, and the air pollution. They are also concerned about the launch racks, the maintenance facilities, and the effect on the RV park. Another concern is that if they do pass this on November 29, because it is considered a public utility they will not require any further zoning and will condemn and use eminent domain. There will be no chance to request buffers or other things required of a developer. If they do get the approval from the Board of Supervisors and the State Land Dept. does auction it off, and they do buy it, they will be able to go in and not have to go back to the county for re-zoning. This is of concern because they are taking it from development sensitive land use to the most intense industrial use without going through the zoning process. If he tried to do this they would have thrown him out three years ago. He invited the Board to log onto [savethepeak.com](http://savethepeak.com) for additional information.

Ms. Stewart asked what Mr. Worth's main concern was.

Mr. Worth responded that his main concerns were: 1) his multi-million dollar investment in the RV park; 2) air pollution; 3) noise pollution; 4) light pollution – it can be seen from the space shuttle; 5) it cannot be buffered. He is not opposed to growth. He understands that Union Pacific needs to have its facility somewhere. They would like to see it in an area that is not such an impact to him and his neighbors.

Mr. Robert Hoffman, a resident of the RV park, addressed the Board. He presented 94 signatures on petitions from people who are full-time and winter visitors to the Picacho Valley. When he first arrived earlier this morning he saw the Board's Mission Statement. What reached out and grabbed him was, "To conserve Arizona's natural, cultural, and recreational resources." He wanted to talk about the natural resources. He's talking about the spirit of the Mission Statement. He doesn't believe that the letter



that was read to the Planning and Zoning Commissioners at the last meeting was strong enough. While it was strong, it didn't make a real impact on the commissioners. He is hoping and asking that someone from the Board itself could actually attend the Board of Supervisors Meeting on November 29 in Florence and stand up and address them and tell them the Board does not like this.

Mr. Travous noted that at the last Board meeting when this issue was discussed, the Board and staff were under the impression that this was way down-the-road. Much to his chagrin, the next day he discovered things were moving much quicker than was anticipated. Staff put together the letter that is contained in the Board Packet requesting that they at least delay any decisions until this Board meeting. It was not recommended for approval by the advisory committee or by the Planning and Zoning Committee. Now it goes to the Board of Supervisors.

Ms. Stewart noted that she plans to attend that meeting. She asked what points Mr. Hoffman thought the Board should make there.

Mr. Hoffman responded that there is a concern that there is a need for industries to provide employment opportunities for the county. His impression was that this is a real driving force behind a number of people, including the Pinal County staff, to get this land changed. He has been working on financial stats and can show through studies done by ASP and Game and Fish that there could be a 10% loss to outdoor activities and small game hunting and that it would be a negative impact of about \$14 million even with the supposed amount of payroll. That is based on the fact that all 175 people they propose will be working will actually move from their current location in Pima County (Tucson area) to Pinal County and will live and spend all of their money there.

Ms. Ann Gilmore Hoffman addressed the Board. She noted that she had a prepared statement but didn't really want to stick with it because she is preaching to the choir. If any of the Board have ever been near a railroad switching yard, they will know that there is a film that hangs in the air from the diesel fumes. It settles on everything. It eats paint off of cars. If this zoning change goes through, there will definitely be a switching yard going in there. If the switching yard is built there, the abundance of saguaros in that valley will die. They will not be able to survive diesel pollution. She tried to walk all 10,472 acres in the proposed re-zoning. She is amazed at the abundance of wildlife in this desert environment. She came across what she believes to be a wild burro. This wildlife will be gone from the immediate area because of the light pollution, the vibration, the fumes, etc. The wildlife that do not run away and try to stay in the area will be poisoned by the diesel fumes. The ground water will be poisoned – there will be chemical spills. Railroad yards attract rats. There will be an abundance of rats in the valley that weren't there before. They will put out rat poisoning that will create second-hand poisoning to any of the birds of prey in the area.

Chairman Porter asked if she and her husband will be presenting this information at the November 29 meeting.

Ms. Huffman responded that she pulls people off the street to discuss this. She invited the old board to her home for breakfast to look at this beautiful valley before it's gone. She and her husband are retired. They don't have to live in Arizona; they want to live in Arizona. They looked for a number of years before they moved to the Picacho Peak

area. This is the most beautiful spot in the universe. She believes a strongly-worded recommendation against it and as much physical participation by the Parks Board as possible is desperately needed. Once this zoning change goes through, we will not be able to go back on it.

Chairman Porter thanked Ms. Hoffman for her comments.

Mr. Michael Anable addressed the Board. He is currently a consultant who is also a recovering bureaucrat. He spent his entire career in state government and did a couple of stints with the Land Department. In that capacity sat on the Parks Board for a number of years. Today he is a consultant for Kai Farms. Mr. Kai initially hired him to help understand the ramifications of this switching yard on his farm. To date they have created a website and have been lobbying everyone possible to assist. It's like David and Goliath. Union Pacific can grow an awful lot when it's something they want. They would like the Board's support. As Mr. Hoffman stated, they would like the strongest support the Board can show at that meeting. Even though they have been successful in two of the hearings on this issue, their intelligence suggests that the three members of the Board of Supervisors may be a different story. They would like a good showing on the 29<sup>th</sup>. He noted that it's not just about Union Pacific. It's the very notion of heavy industrial use of this magnitude of 1,000 acres right across from the park that worries him from a long-time perspective. It is contrary to the direction of Pinal County and the Land Department just a few years ago, and it's contrary to the direction of this Parks Board with the recent acquisition of land near the park now. He believes we need to be wary of what kinds of uses a general plan might bring. He appreciates the Board's support.

Chairman Porter asked if staff would be at that meeting on the 29<sup>th</sup>.

Mr. Travous responded that he has a previous meeting on that date. He will try to revise his schedule so he can be present on the 29<sup>th</sup> along with other ASP staff. He doesn't, however, disagree that having Board members at the meeting would be very important.

Chairman Porter noted that Ms. Stewart indicated she will attend. He will try to rearrange his schedule in order to be present as well. He considers this to be very important. He grew up around railroads. His father worked for Santa Fe. He loves trains, but he has been around switching yards and they are not nice places. He is concerned about the impact it could have there.

Mr. Woodling noted that at the October Board meeting the Board did not act on this. The Executive Director wrote this letter to the Supervisors. The letter does not strongly state that the Parks Board opposes this. He would like this Parks Board to come out with a very strong statement opposing this switching yard and this change of land use. He would like a motion from this Board showing that the Board is vehemently opposed to any kind of land use change so we can go there on the 29<sup>th</sup> and say this is what the Parks Board did.

Ms. Stewart stated her full agreement with Mr. Woodling. She thinks the motion should be specific and include some of the points some of the people present today made about the light and air pollution.

Chairman Porter suggested that when the Board recesses in a little while that Ms.

Stewart and Mr. Woodling consult with each other and compose a motion for the Board's consideration.

Mr. Winkleman noted that there are always two sides to a story. He felt it might be helpful for Mr. Travous to share information from a meeting he had with representatives of the railroad with these folks who are here.

Mr. Travous reported that representatives of the railroad came to his office about three weeks ago. They hired Landry Associates to represent them on this issue. They brought him a map of where they thought they would be and explained why they chose where they chose. It boils down to, from their perspective, the availability of the amount of land they need, the slope of the land (4% or less), and the proximity to an existing railroad. They also explained that the reason they are pushing this is that the north/south line to the Phoenix metropolitan area is a spur line from California to Texas. There is another switching line in El Paso where the cars are switched off in different directions. They switch cars; they bump them into packages going in different directions. That's what a switching yard is all about. The capacity to get rail into the Phoenix metropolitan area is crammed.

Mr. Travous stated that he asked why not New Mexico or towards San Diego or towards Yuma. They explained how much exponentially they can increase the rail capacity. He told them that the Board had not had a chance to discuss this as a Board. That's basically where they left it. He asked them to give the Board time to look at it. He won't disagree with the points the people here brought up; but he doesn't think that's the strong suit in this. One can disagree that all the saguaros will die. One can disagree that it will be noisy. The final problem, in his mind, is that no one has had a chance to figure that out. Staff have not had a chance to sit down, reason with people, and understand what the impacts can be, and talk about how they could or could not be mitigated. He asked them if they looked at the land - had they looked at moving the switching yard two miles to the east. The representative from Union Pacific said they had not thought about that. That's his point. They haven't thought about a lot of things. It might be that that's the best place. The Board has a responsibility to ask the questions on behalf of the public. We need time to do that.

Chairman Porter noted that he believes the Board's decision has to be exactly what Mr. Travous said - this has not been planned out properly and they need to delay their decision. However, if they are going to insist on making the decision then the Board are adamantly opposed.

Chairman Porter returned to Agenda Item E.6.

## **E. BOARD ACTION ITEMS**

- 6. Simonton Properties in Camp Verde** - Staff recommends that the Arizona State Parks Board direct the Executive Director to purchase the land identified as Parcel 2 in the Board Packet after completion of due diligence required by Parks' Land Acquisition process and other Board-approved procedures; and further that the Parks Board allocate not more than \$810,000 from the Arizona Heritage Fund/Natural Areas Acquisition for the purchase.

Mr. Ream reported that last month the Board discussed the Simonton Property and tabled the recommendation on Parcel 2 of the Simonton Property because it was

chopped up. Staff went back to Mr. Simonton to see if something could be worked out. Mr. Ray Warriner (ASP) and Mr. Bill Lee (City) were in favor of just buying the whole parcel. That removes the envirozeum from that parcel. It makes the NAPAC recommendation a strong recommendation for purchase. It removes all of the barriers the Board talked about regarding management of those properties as well as giving the Board the two slices of bread of the Forest Service sandwich there. It makes it a continuous piece of property all along there. In answer to Mr. Scalzo's questions, staff spoke with Mr. Simonton about the parcels and water rights. Right now the real estate agent reports that the Simonton parcels and the ASP parcels under consideration have never been an agricultural production, thus there are no surface water rights or well registrations associated with the property. Staff will perform due diligence to confirm this statement prior to making any sort of purchase. Insofar as access to the property, Mr. Simonton has shown where the access to this property is. He stated his support of the motion as recommended by staff with one exception. It should say, "Arizona State Parks authorizes the Executive Director" rather than "direct the Executive Director".

Ms. Stewart noted she had some questions before any motion is made. She asked if the envirozeum will not be part of this property in any way, shape, or form.

Mr. Ream responded that it will be impossible for it to be part of that property because of its size. They would have access to the trails should they develop there as members of the public. They would have no more access than anyone else. This parcel cannot be turned over to the envirozeum. The city cannot develop on that property.

Ms. Stewart asked if ASP would be purchasing the part that the envirozeum was going to have their buildings on.

Mr. Ream responded affirmatively. He does not know where the envirozeum will go. There are another 10 acres there. Mr. Simonton has told the school district that they could have the property. The school district has no need for it so the property will probably revert to the City. He is not sure where that property is.

Ms. Stewart noted there was discussion about having a management contract if we were going to ask the City to manage it. Staff was going to work out a standard contract.

Mr. Ream responded that things have not gotten that far.

Ms. Stewart asked if a promise has been made to the City that they are going to manage this.

Mr. Ream responded that he has not had a discussion with the City on that. All he knows is that we really don't have a management position there on that part of the Greenway. There are no tours.

Ms. Stewart noted that she and Mr. Ream had a conversation at the Resolution Trust event and Mr. Ream indicated that the City will manage it. She wants to ensure that no promises have been made.

Mr. Travous responded that there was talk about partnerships where the City would help us manage it. There were no promises made.

Ms. Stewart responded that the first time it was brought to the Board's attention the

Director indicated that the City asked the Board to purchase this parcel because they wanted to put a park there and didn't have the money. The Director stated that the Board has money in the Natural Areas fund that he felt couldn't be used to purchase anything because of the restrictions.

Mr. Travous responded that they wanted to put a trail there – not a park. The envirozeum came in later.

Ms. Stewart stated she wanted to clear all of this up because when she asked Mr. Ream for the City's Management Plan she got a copy of the envirozeum proposal. She was confused on all of that.

Ms. Stewart stated that she feels it is important, since this is special Heritage Fund money from Natural Areas, that we are supposed to manage the property to ensure that the values for which it was purchased are protected, that that be included in the motion because six years from now when someone is trying to determine what we are supposed to monitor or protect they not only have to look at the Minutes but then go back to not only the Board Packet for this meeting but the Board Packet for the previous meeting that contained the information from NAPAC.

#### **Board Action**

Ms. Stewart: I move that the Arizona State Parks Board authorize the Executive Director to purchase the Simonton parcel identified as Parcel 2 after completion of due diligence required by Parks' long acquisition process and other Board-approved procedures. An amount of not more than \$810,000 from the Arizona Heritage Fund Natural Areas Acquisition shall be used for this purchase. Further, that the reason for purchasing this under the Natural Areas program was to protect the natural areas elements of the mesquite bosque and suite of species typically found in a mesquite bosque and for the connectivity to the US Forest Service property to protect open space value.

Mr. Cordasco seconded the motion and it carried unanimously.

Ms. Stewart stated she believed there is something else the Board needs to do. She would like to make a second motion regarding Parcel 11.

Ms. Hernbrode responded that it would need to be on the Agenda for next month.

Ms. Stewart requested this be on the Consent Agenda for the January Board meeting.

Chairman Porter called for a Recess at 10:30 a.m.

Chairman Porter reconvened the meeting at 10:50 a.m.

Chairman Porter returned to Agenda Item F.7. He noted that Mr. Winkleman was absent from the room, but that the Board maintained its quorum. He thought that Mr. Winkleman would find himself in a conflict of interest situation on this issue in his capacity as Land Commissioner.

Ms. Stewart added that he is directed by other statutes than the Board is.

Mr. Woodling would read part of the motion and Ms. Stewart would read part of it.

Mr. Woodling: I move that the Arizona State Parks Board oppose the amendment to

change the now County General Plan that would allow a proposed switching yard in the close proximity to Picacho Peak State Park. The impact to the State Park would be enormous in lost revenues and to the pristine habitat for the following reasons:

Ms. Stewart: Such a facility would cause air, light, and noise pollution; would destroy saguaros and other sensitive flora and fauna and wildlife habitat and destroy the view shed of the park. Visitors come to the park to enjoy the pristine habitat and wildlife. We do not believe our visitors would want to camp, hike, or picnic with such a facility so close. As a result, the economic benefit to Pinal County from the park would be decreased dramatically.

Ms. Stewart noted that Mr. Woodling is making the motion and she is seconding it.

Mr. Winkleman returned to the meeting during the reading of the proposed motion.

Chairman Porter stated to Mr. Winkleman that, in his position as Land Commissioner and as an officer of this Board, he suspects there is enough of a conflict the Mr. Winkleman will probably not want to vote. However, he does believe that, in his position as Land Commissioner, he could make a statement to the Board. Ordinarily, if one has a conflict, he/she does not participate at all. In this case, he doesn't think Mr. Winkleman would be so much participating as providing input just as everyone else can.

Mr. Winkleman stated that he would abstain from voting. He does believe that a little context here would be helpful because the application to change the existing zoning is from the Land Department – not from Union Pacific Railroad. Urbanization is coming to this state. We are one of the most rapidly organizing states in the country. Those who pay attention to these road patterns may be aware that there's a number that are shown as mega corridors where cities are growing together. One happens to be here. They've named it Camino del Sol. It is Tucson growing together with Phoenix and perhaps extending up to Prescott. They are doing their projections based on that. While many are disappointed that Prop 106 did not pass, the fact that it got as close as it did speaks volumes about a lot of people's desire for protection of open space. As this Board knows, Picacho Peak was one of those special places that was to be protected by 106. It is unrealistic to believe there will be no development visible from Picacho Peak. It is also unrealistic to believe there won't be any development near Picacho Peak and contrary to the mission of the Trust. It is the Land Department's obligation to do what it can to maximize value. We are all for good planning. He would have no opposition to suggest that everyone have their chance to have their say and all sides be heard. Speaking to the question of where all these people will go, they will go to this area. Phoenix and Tucson are going to be connected. As much as some people would like to say that's a shame and it's terrible, it is a reality. Rather than taking the attitude of sticking our heads in the sand like the ostriches that sit at the base of Picacho Peak, we ought to get involved in proper planning and look at the long-term perspective. That takes a lot of forms. One is employment base. Pinal County is in a terrible situation now because they're essentially becoming bedroom communities to Phoenix and Tucson. For anyone who's tried to drive I-10 or the roadways out there it was a terrible traffic problem. One of the solutions is rather than having so many driving to Phoenix or Tucson for their employment, have this as an employment base. This isn't something the Land Department dreamed up. The County is looking at finding employment areas within Pinal County. Good planners will show employment bases along this freeway.

The County and Board of Supervisors see this as a big priority. As you go to speak, you need to acknowledge that they see this as a critical leap for their community. It's got to go somewhere. Otherwise the roadways will be flooded with people who want to live in Pinal County but have to drive long distances to work elsewhere. The railroad itself has a capacity crisis. We do not have the rail capacity to move materials through the state. It is so critical that the Governor has formed a committee to do that. It's materials as well as potentially passengers. Those railroad tracks are not really ours. Know that the Governor supports increased railroad capacity as does most of the business community. While open space is a need, the railroad is a big part of the ability to supply the state with goods and services we all depend on. Union Pacific has searched from Phoenix to Tucson. They chose this location because of some of the reasons Mr. Travous mentioned. These things can't just be located anywhere. Just saying we don't want this thing is not enough. No one wants a switching yard in the backyard. No one wants a sewer treatment plant or a landfill in the backyard. We will always have these kinds of uses. They are problem uses. It is unrealistic to say that we don't want to see anything offensive from Picacho Peak. A sea of rooftops is not necessarily a wonderful thing to look at. He would suggest we look at planning. To say we don't want a switching station or employment centers is short-sighted. There is an Interstate that runs through there that is noisy. He guessed that there are more diesel trucks going up the Interstate than trains. He endorses having good planning. The planning should take these things into account. The message should be let's do things that make sense. We just came off a nasty campaign where people twisted facts to suit themselves. He doesn't deny anyone their right to have an opinion. In terms of light pollution, they have agreed to comply with Pima County's dark skies. They have to comply with regulations regarding ground water. This is more than just a switching station. There will be business of all types there. A lot of those business won't be the type one would like to live next to. ADEQ patrols the entire state. The switching station will have to comply with the laws just like everyone else. He would like people to focus on the facts. He encouraged the Board to take the position that Mr. Travous has – give us time to do some good planning. He encouraged the Board to not sensationalize this matter and make strong statements about hurting flora and fauna that may or may not be true and stick more to the facts. He will abstain from voting. This isn't a situation where the Board has all of the facts before them. He encouraged the Board not to go too far in making this motion.

Chairman Porter stated he would like to follow up with some comments. He has concerns about the motion as it is in part because he believes the Board is, in fact, making a list of things that we say will or might occur that the Board does not have all of the data to support. He believes the Board does damage itself and make itself look like it is shooting from the hip. He is convinced, from everything he's heard today, that these issues will be raised by some of the public. He doesn't believe the Board has had the chance to really do that kind of study. He believes that the Executive Director has made that clear, too. He believes that Mr. Travous' position, which is if you have to vote on this, vote no is the correct one. Reject it. It needs to be studied more and we would like to have it studied more. He believes this is an all or nothing proposition for the Board of Supervisors. If they don't approve it, or try to delay it, they cannot address this issue again for one year.

Mr. Travous explained his understanding is that once something is voted down, they

have to wait at least a year to bring it up again. If they don't vote on it they can bring it up any time they want to. Generally, counties deal with their General Plans once a year – they don't like to come back and deal with it every other meeting.

Chairman Porter stated he would have no heartburn about supporting the beginning portion of the motion. He asked that the first portion be read again.

Mr. Woodling read the first part of the motion as follows: I move that the Arizona State Parks Board oppose the amendment change to the Pinal County General Plan that would allow a proposed switching yard in close proximity to Picacho Peak State Park.

Chairman Porter stated he could support that. Unfortunately, he believes Mr. Winkleman is probably right because Mohave County in the area of Kingman is dealing with that right now in that they are exploding in the same way as Pinal County is. They are rapidly becoming a bedroom community to Las Vegas. That will increase dramatically when they finish the Bypass. They are fighting a series of these problems of questionable things that will be there. The question is where. There are issues of where to locate all these plants. You don't stop that kind of progress. But, you can help guide where they will be least objectionable. He believes the Board's position has to be as a State Parks entity protecting our state park and not pertaining to interfere with Pinal County's destiny or their right to make their own decisions. It is the Board's position to protect our state park. The closer the switching yard is to our park, the greater the potential damage. The Board's position has to be to try to get it as far from the park as possible.

Mr. Siegwarth noted that as a camper and hiker, he has camped at Picacho. There has been a lot of investment in making it a great campground. Trains, as they are now, still wake him up at night because of all the little cross roads where they have to blow their horns. As a hiker, he has always looked at the far side of Picacho Peak, some of which might be private land, as a potential expansion of the park and setting up campgrounds there. His point is that if one side is going face a railroad, perhaps adding mitigation of perhaps giving us some State Trust land on the other side could allow us to build something else. While it would get us out of the railroad problem and the fact that we've put so much money into the park, the other side is just as gorgeous as this side. From the other side one can see a nice range of mountains to the west and the northeast.

Mr. Woodling asked if there is access to the other side of Picacho Peak.

Mr. Siegwarth responded that people could get back there. It would not be a big deal.

Ms. Stewart noted that's an interesting suggestion, but it would essentially mean rebuilding the entire park on the other side. As a frequent camper in state and national parks, it is one thing to have a railroad track and highway run by. It's a different thing to have one of these railroad switching yards where the noise is constant.

Mr. Siegwarth noted that it would be on the other side of the mountain. If demographic projections are correct, as a state park system we would sadly be under-serving the people who are expected to move there. If visitors are just passing through they could stop on the highway side; if they really want to recreate they would go to the far side.

Mr. Cordasco noted that this discussion appears to be evolving. He noted that there was an issue at Red Rock State Park with the development next door. They wanted the advantages of being next to the park to benefit the development. ASP really has to be



visionary. We will be having more of these discussions in the future. They raise the question of how we fit in with regional planning. The motion today will not define the way the Board will do the motions in the future. It is heading us in the direction the Board will make motions in the future. How do we participate with these counties in a way that allows us to state they are having a direct impact on the state but we also want to be part of the mutual planning.

Chairman Porter stated that if the last portion of the motion were struck, he could support it. It strikes him that the Board could certainly go there and tell them that if they are just going to vote for this thing right now, the Board is dead set against it and strongly urge them not to do that. The Board prefers that they delay it and give everyone a chance to look hard at these issues. There may well be mitigation issues that could be discussed. There are possibilities that there may be issues the Board could address. That might be a more reasonable approach.

Mr. Travous suggested that the first portion of the motion is something the public expects the Board to do. That's not the only statement that should come from the Board. The rest of it is what happens at the meeting with Pinal meeting that states if they have to vote no, the Board requests delaying the vote. If they can't delay a year, we need to look at this from a regional perspective.

Chairman Porter stated he would leave it to the makers of the motion as to what they would like to do. As it currently stands, he will not be able to support it. He would be able to support it without the last portion. He thinks we really need the opportunity to understand what this is going to do to us. He thinks we know we don't want it where they currently propose to place it, but there may be room for it to be close by.

Ms. Stewart stated she thought the Board would at least want to have something about the Board is concerned that our visitors would not want to camp, hike, or picnic with a facility in such close proximity and that it would result in a decrease in economic revenues.

Chairman Porter requested the motion, including that portion, be read.

Mr. Woodling re-read the motion including the portion the Chairman requested as follows: I move that the Arizona State Parks Board oppose the amendment change to the Pinal County General Plan that would allow a proposed switching yard in close proximity to Picacho Peak State Park. The negative impact to the State Park would be enormous in lost revenue and to the pristine habitat of the park.

Mr. Travous noted that, regarding the pristine part of it, there is a highway there; there's a railroad there.

Mr. Woodling noted that he is talking about the pristine habitat within the park itself. He's been to the park and has camped there. It is pristine.

Mr. Travous responded that he believes it is safe to say this will have a negative impact on the park. It will take some mitigation in order to counterbalance that impact.

Ms. Stewart stated she felt it is important to have an extra sentence. A lot of people may not know what activities go on at this park. She believes the motion should say that the Board is concerned that the visitors will not want to camp, hike, or picnic with such a

facility so close.

Chairman Porter stated that he wanted Mr. Winkleman present for the next item the Board will take up – the Executive Session. He suggested that the Board go into Executive Session and then come back out and have a break while this motion is re-written in accordance with the discussion the Board has been having.

Mr. Woodling made a motion to go into Executive Session for advice from counsel. Ms. Stewart seconded the motion and it carried unanimously.

The Board went into Executive Session at 11:20 a.m.

Chairman Porter reconvened the meeting at 11:50 a.m.

## **I. ACTION ITEMS FROM EXECUTIVE SESSION**

### **1. The Board may take action to determine or change the scope and limits of its interaction with the Arizona State Parks Foundation.**

Mr. Travous reported that the Parklands Foundation was politically put together and then politically fell apart. There were a lot of concerns because the Parks Board found by reading in the newspaper that a new state park had been created. Not only did the Parks Board not know about it, the Director of the Parks agency did not know about it.

Mr. Travous stated that, since that time, five or six Parks Board members over the years said if the agency is going to be effective as an agency there needs to be a foundation to do those things foundations do. He had been reluctant over the years and had put this off for more than 10 years but was convinced 4 years ago when the legislature took 75% of our budget that we needed advocates outside of this room and we needed an outreach program. He approached the Board and said we needed to put together a foundation. The Board agreed. He subsequently hired a person (Executive Consultant) to put it together. That is that person's job description. He had the Executive Consultant research what other states and agencies have done. This is not just about the Foundation. We have Friends groups that have been affiliated with individual parks for 20 years. The McFarland Foundation, for instance, goes back long before he got here. Now we have Benefactors of Red Rock State Park, the Friends of Kartchner Caverns State Park – we have them everywhere.

Mr. Travous noted that staff came to the Board about three years ago and said that the National Parks Service has a Charter. Congress said, "You are the foundation". That is what staff proposed to the Board and the Board turned it down. The Board said they did not want to go before the legislature on this because it was unknown what they would do. Then staff began looking into what other states were doing. He and the Executive Consultant worked with other states to find out what agreements were out there. He has a document that was put together to bring the Board and Foundation closer together. The Executive Consultant came to the Board's attorney and said there needs to be an agreement between the two parties. Work began on a suitable document that ended up in Risk Management. We ended up with a 9-page document that included things like disease, waivers of subrogation, Workman's Comp. The Foundation came back and said they couldn't do that.

Mr. Travous stated that last March or April he and Mr. Roe (Foundation Board member) approached Chairman Porter and told him that there needs to be a way to get

this straightened out. He proposed, possibly in May, that there be a preamble stating what the parties were about to do and try to create a known relationship. Even though the Foundation has its 501(c)3, it takes a couple of years for them to get rolling. The Foundation itself said they should be able to get things squared away within 3 years.

Mr. Travous stated he has some recommendations. Staff take this seriously. When Ms. Hernbrode and Ms. Boland came to his office, he asked them if this is an investigation. That is what it certainly looked like. They stated it wasn't – they just needed to know what was going on with this, this, and this. He told them that some of the things they were pointing out had already been taken care of – some for more than two years. That fact is not reflected in some of the materials the Board has seen. Other things have not. The heart of it is that he thinks there needs to be an agreement. He recommends that if the Board is going to take an action that it be that he brings the Board an agreement no later than January that the Board can look at and mull over. Then, as quickly as possible, get back to the Foundation, have them sign it, and at that point we have a joint meeting of the Foundation and the Parks Board to discuss the future of both.

Ms. Stewart stated she believes it is essential that attorneys be involved in the preparation of any agreement. This is a legal issue for the Board. The Board was given pretty clear legal advice in January. It is her understanding that part of the advice the Board was given when they heard that the Foundation may not be anxious to sign the agreement was our attorney explained there was a procedure to follow. If there was something in the document that was objectionable, the Foundation could write a letter to Risk Management and there could be some work on it. She thinks it's important that the Board keep its contract as standard as possible. She understands that this is what other state agencies use. This was not something someone in Risk Management just pulled out of thin air. There was quite a long discussion at that meeting about why it was being recommended. She is somewhat hesitant to just throw it out and not involve our attorneys. The Board has a legal problem here. Advice was given a year-and-a-half ago about ASP staff not performing any administrative functions and not serving as staff to the Foundation. It appears that that has, in fact, been happening.

Mr. Travous responded that yes, it does appear that way. Going back to the Executive Session, if there's going to be an Executive Session to discuss that, it is more appropriate that the Executive Session be for Personnel Issues and that it be stated as such.

Chairman Porter stated that the Board is discussing the issue of what it wants. It sounds like the specific recommendation is to direct staff to return an agreement to the Board by January. It would be insane to not have it reviewed by the Board's attorneys prior to coming to the Board. He believes it boils down to timing to get it done in time for a legal review so it can come before the Board in January, have an Executive Session for legal advice from counsel. He agrees with Ms. Stewart, but believes the Board needs to concentrate on moving forward rather than being overly concerned about what occurred in the past at this point. That's a different issue.

Mr. Travous noted that in the past it was, "been there, done that, got the tee shirt". He would like to go through a state process with other agencies and himself. As the January Board Packet is put together, he will ensure that Ms. Hernbrode receives a copy of it. She will have ample time to review it from a legal standpoint.

Chairman Porter requested Ms. Hernbrode provide Mr. Travous with information that

needs to be incorporated as well.

Mr. Travous responded that if staff finds something to bring to the Board in January as a model, then staff can take it to other Friends groups that are already in place.

Ms. Stewart noted that there needs to be a legal survey of what other states are doing. She thinks the Board and the attorney need to have that information.

Mr. Travous responded that he thought the Board received that information at the October 16 meeting. That's what he has spent this last month looking at until this week when he found out what was really being discussed in Executive Session.

Ms. Stewart noted that the Board never received that information.

Mr. Travous noted that the only reason he pulled it off the Agenda last month was because he only received it a day prior to the meeting himself and did not think it was fair to him or the Board to talk about it without having ample time to review it.

Chairman Porter asked for a motion directing staff bring an agreement in relation to the Foundation that has been fed through the AG's office no later than the next Board meeting.

Ms. Stewart stated she would prefer a motion that staff work with the Board's attorneys to draft something because she thinks it's too problematic otherwise.

#### **Board Action**

Mr. Cordasco: I move that staff is directed to prepare, with the assistance of the Attorney General's Office, an appropriate agreement with the Foundation and bring it to the Board at its next meeting in January.

Mr. Winkleman seconded the motion and it carried unanimously.

Chairman Porter asked if there is anything in the interim that needs to be done.

Mr. Cordasco noted that it is clear from Ms. Hernbrode that there should not be any communication between ASP staff and the Foundation.

Chairman Porter stated there obviously has to be communication with the Foundation in the very negotiation of the contract.

Ms. Hernbrode apologized for not having something a little more articulate for the Board to consider. Perhaps something directing staff not to work on behalf of the Foundation.

Mr. Travous stated that the Board is singling out the Foundation. It is much bigger than this. He will talk to staff and ensure that anything they do is on their own time. We will bring an agreement to the Board in January.

Chairman Porter responded that it is very clear that where we are skating the closest on potential problems is the Executive Consultant.

Mr. Travous responded that there are people all over this organization that work with Friends groups. The Executive Consultant is the one who's been singled out. We need to get a handle on all of the groups.

Chairman Porter stated his agreement with Mr. Travous' comment. However, he does

think the Executive Consultant is the one specifically brought to the Board by the Attorney General's Office. The Board has to recognize that they are on notice, very pointedly, about that. Because of that, the Board has an obligation to react to that particular point. He believes that what Mr. Travous is suggesting, in reality, is exactly what they have suggested.

Ms. Stewart stated she has concerns beyond that. First of all, she thinks there's a difference between the Foundation and the various Friends groups. The various Friends groups were created by those people. Our employees are not part of the incorporating piece. A lot of the Friends groups are out there doing their own thing to some extent.

Mr. Travous responded that Ms. Stewart does not know that for a fact – she assumes those things. That is not the case. The truth is that we helped put the Friends of Kartchner Caverns State Parks together and it took five years to do that – with staff engaged with employees doing that.

Ms. Stewart responded that the McFarland Foundation started on its own. Some of the others did, too. Anyway, aside from that, she is concerned that everyone got this advice. Mr. Travous was present in January 2005. Now we're here. The Board are the ones on the hook here. She doesn't believe the Board is conducting the oversight required of them by just telling staff to take care of it. She believes the Board needs to be specific about doing some of these things that were recommended to the Board.

Chairman Porter responded that that was exactly where he was trying to get to. He stressed that he believes the Board's main concern (because the document from the Attorney General's Office is very explicit) is that we have people employed by ASP who are in fact spending time working with both the Foundation and Friends groups on state time. That is an issue, and he believes Mr. Travous is concerned about it. That is not, however, what is being thrust upon the Board at this time. He noted that he did draw a distinction between the Foundation and Friends groups.

Chairman Porter added that the AG's Office suggested the Board investigate and look into that. His big concern is that they specifically notified the Board of a specific situation by name. He believes the Board needs to address that during the interim prior to having the agreement and then take up where the Executive Consultant fits in. He suggested that what needs to be done is that the Board makes sure that the Executive Consultant's time is going into the job the state is paying for and not the Foundation in the interim where the Board is really skating on thin ice.

Mr. Travous added there is enough specificity in this about a particular person that he questions, and thinks other people could question, whether this was appropriately done under the Open Meeting Law for legal advice rather than a personnel issue. That being said, if it was a personnel issue, that person and he (because he was mentioned) and others had the right to be notified and they had the right to have that meeting in Open Session. He believes that if we get too specific afterwards, then we open ourselves up for a lawsuit from individuals for talking about individuals in an Executive Session.

Chairman Porter responded that Mr. Travous' statement is a point well taken. However, it was not specifically any form of criticism or allegation that the Executive Consultant did anything wrong. The question is whether the agency did something

wrong in having her do that. He thinks we're OK. However, the point is well-taken.

Chairman Porter noted that staff knows what's been advised and what the Executive Consultant needs to not be doing. During the interim (January Board meeting) those activities come to a halt.

Mr. Travous responded that the Executive Consultant has been working weekends; this is a sad, sad state of affairs.

Chairman Porter stated he understood. There are a number of statutes he doesn't particularly like, either. But, he doesn't get to write them. Everyone needs to understand that a taxpayer could bring a charge against the agency. It's not just Mr. Travous on the line, then. It's the Board members individually financially responsible if funds have been spent inappropriately. It is important that this be dealt with appropriately.

Ms. Stewart responded that she did not think the Board has been specific enough. The Board has been given specific advice on what we're supposed to do. She doesn't think just saying to Mr. Travous, "Take care of it" is sufficient.

Chairman Porter stated that Ms. Stewart is free to make a motion.

Mr. Cordasco asked what Ms. Stewart suggests.

Ms. Stewart responded that a motion should include specific recommendations about keeping detailed time records, reviewing what's occurred, and getting a better handle on what's going on. The Board is responsible if something turns up later and yet haven't taken the time to advise ourselves.

Chairman Porter asked if Ms. Stewart wished to make a motion. As Chairman he has passed along what he feels needs to be done. If Ms. Stewart feels it needs to go further, then she needs to make a motion.

Mr. Cordasco suggested thinking, first off, about what ASP is and what it's been trying to do. It is not up to the Board to babysit everything that goes on in the agency. The Board has been trying to get everyone to help us and have gone to the Governor's Office and asked for help. We're trying to build parks we can't afford. We get opportunities that we can't take advantage of. To sit here and require time records of employees doesn't make sense. He appreciates Mr. Travous' comments better than before that we could be going all the way down to park rangers and have to keep time records on them.

Chairman Porter asked if anyone wants to make a motion. If not, we'll move forward.

Mr. Cordasco stated he had just one discussion item. He apologized for not remembering exactly because it was a long time ago. The Board members had to take a class before sitting on the Board. It had to do with travel. There was lot about not doing anything to violate the Open Meeting law. The point was if you do this and you don't do this, etc., this issue really doesn't seem to be all that much different in design. It's saying you are State Parks – you can't do this. Just make that clear to the employees. Have Ms. Hernbrode draw up a memorandum to the employees that explains the law and warns them not to break the law or there will be consequences. If there are any questions, talk to Mr. Travous or Ms. Hernbrode or whoever. When we're

told this is bigger than just one individual, just having a motion that says let's review the Executive Consultant's time records and not hitting everyone else does nothing for the rest.

Chairman Porter noted that this has been specific. The Board is on formal notice that there may be a violation going on with recommendations on what the Board should do. He directed the Executive Director that until the Board meets in January, deal with the Foundation and establish a relationship, to make sure that if there is anything there it does not happen any more. He asked if anyone feels they want to go further than that, to please make a motion.

Mr. Winkleman asked if the employees are unclear about this law.

Mr. Travous responded that when one gets out into the hinterlands the question they ask is, "Am I allowed to let my friends group use my facility for the Christmas party because I asked them to pay for it?"

Ms. Stewart stated she believed a number of things need to be done. The first is to give specific direction to Mr. Travous about what the Board wants him to do and when. She feels that it's a staff responsibility to come up with a directive to the rest of the staff about what activities they can engage in and what they can't. That memorandum should be prepared by Mr. Travous to sent out to all of the people involved. Secondly, she thinks that there needs to be an immediate review of the Executive Consultant's job description. She was not aware things like fundraising, etc., were included in the job description which our employees may not be allowed to do. The job description needs to be reviewed with the AG's Office and a new job description may need to be written. On the one hand, the Board cannot tell employees what they're supposed to do if there's something on the job description that's contrary to what's allowable. It needs to be taken care of. She thinks that there are other employees who may be involved, but she doesn't think that any of the other employees have been placed in a situation where the primary focus of their job is to be working with these Friends groups. Park Rangers have some pretty specific job duties and there might be an incidental something. She's not saying the Board doesn't need to be concerned about it, but she assumes the focus that relates to these job duties is on one person. She thinks that there needs to be a review of the time records and the travel expenses within the office and staff needs to take a look at that. If there has been any inappropriate expenditures or anything, they need to take care of it. There's articles in the newspaper about the City of Phoenix. This needs to be reviewed internally. They need to make sure that there hasn't been anything expended inappropriately. And, they need to make a report to the Board about what they're doing.

Chairman Porter noted that the Board would need to take a break so the motion relating the railroad issue can be worked on. He suggested taking a little longer break so the motions can be made clear and concise. There are two motions that need to be made and need to be worded very carefully. He also suggested breaking them into pieces that they can be voted on. There may be some parts the Board members support but not others.

Mr. Woodling noted his concern that if the Board attaches ASAP to additional motions coming out of this meeting that the staff will not be able to get them all done. He has a problem with going further right now. He believes Mr. Travous noted staff will be on

vacation during December; there will be other things going on. January is coming right around the corner. He would like to see just a motion that goes along with Mr. Travous and his staff putting together a contract using the AG's Office for advice and come before the Board with that contract in January. Then maybe the Board can deal with these other things.

Chairman Porter noted that everyone has the right to make a motion and the Board will hear those motions.

Chairman Porter called for a Recess at 12:22 p.m.

Chairman Porter reconvened the meeting at 12:53 p.m.

Chairman Porter went to Agenda Item F.2.

## **F. DISCUSSION ITEMS**

### **2. San Bernardino Ranch**

Mr. Porter reported that there is nothing to report. There has been ongoing correspondence with various people involved. He believes it is moving in a good direction. It will remain on the Agenda.

### **4. Tam O'Shanter**

Mr. Travous noted that the bill has not been passed in Congress.

### **5. Picket Post House**

Mr. Ream reported that the BTA Board appreciated this Board's Resolution to purchase the Picket Post House and appreciates their position. The BTA Board has resolved to draft and send a letter to Governor Napolitano. They have dedicated funds to help for an appraisal on the property.

### **3. Contact Point**

Mr. Ream reported that staff have finally gotten together with the Chemehuevi (Tribe). He is meeting with their attorney. They would like an agreement between ASP and the Tribe. He has spoken to the Parks Board's Chairman for assistance with those negotiations.

Mr. Scalzo arrived at the meeting at this point.

Ms. Stewart asked if a report on this agreement would be provided at the January meeting.

Mr. Ream responded that the agreement they want is that the Board will consider providing space for a ferry docking facility at Contact Point for the Tribe to cross Lake Havasu with their ferry. They need this agreement to show some sort of good faith with ASP so they can continue to move along in their process to get grants and money for their ferry.

Ms. Stewart asked if the Board is in a position to do that before receiving the study of that property.

Mr. Ream responded that that is why he needs the Chairman of the Board with him. It gets into whether or not we are capable of doing the study and development at Contact



Point within our budget. Our budget is the key factor in this.

Ms. Stewart noted that, beyond the budget, the study is important because without it the Board doesn't really know what's feasible in terms of how many of all the things on the wish list can fit on the property we have. If the Board tells staff to begin negotiations, something else might be cut out that is a higher priority.

Mr. Ream responded that without the budget we can't do the study.

Ms. Stewart stated that it isn't even the study. After the study is completed, the Board may determine it can only do 3 of 6 projects on the wish list. The ferry may be one of the 3.

Chairman Porter responded that he did not think there was any thought whatever of going too far down the road. These are preliminary discussions with the Tribe and trying to see where they're coming from and what they can do or bring to the table.

Ms. Stewart suggested that the term "negotiation" is what needs to be avoided and, rather, say "discussion". She doesn't have a problem just talking.

Chairman Porter stated the Board will not go anywhere they can't go.

Chairman Porter returned to the issue of the Pinal County General Plan.

Mr. Woodling read his proposed motion as follows: We, the members of the Arizona State Parks Board, as stewards of (add Mission Statement) request that the Pinal County Board of Supervisors reject the request of the Arizona State Land Department to change the designation of State Trust Lands around Picacho Peak State Park from development sensitive, transitional natural resources, and interchange mix to urban, industrial, and rural community. We take this action to allow the County and the State Land Department to provide us with their complete future plans for development on this property and provide us with information or potential environmental impacts to the land around Picacho Peak State Park.

Chairman Porter stated he like the motion and that it does open the door. The Board members can flesh it out during their appearance at the Board of Supervisors meeting by pointing out we do have serious concerns. The Board doesn't know the ramifications because this has been sprung on them without adequate time to really look hard at it and try to understand it. The Board is not anti-development; is not trying to tell Pinal County how to do their business. However, the Board is concerned about this very important state park. It gives a lot of room to present our concerns.

Ms. Stewart stated she would like to see something in there about the Board's concern about the impact it could potentially have on the visitors' camping, hiking, and picnicking and the resultant economic impact to the County.

Mr. Scalzo noted that the way to do that would be to be present at that meeting.

#### **Board Action**

**Mr. Woodling:** We, the members of the Arizona State Parks Board, as stewards of managing and conserving Arizona's natural, cultural, and recreational resources for the benefit of the people both in our parks and through our partners request that the Pinal County Board of Supervisors reject the request of the Arizona State Land Department to change the designation of State Trust Lands around Picacho Peak State Park from

development sensitive, transitional natural resources, and interchange mix to urban, industrial, and rural community. We take this action to allow the County and the State Land Department to provide us with their complete future plans for development on this property and provide us with information or potential environmental impacts to the land around Picacho Peak State Park.

Mr. Cordasco seconded the motion and it carried with Mr. Winkleman not voting.

Chairman Porter thanked all the people who came to this meeting to speak to this issue.

Chairman Porter returned to Agenda Item I, Action Items from Executive Session.

Chairman Porter asked if Ms. Stewart wished to make a motion.

Ms. Stewart read her proposed motion as follows:

I move that the Executive Director prepare, in consultation with the Attorney General's Office, a policy setting forth the scope of appropriate and inappropriate uses of state employee time, travel, and state property relating to Foundation and Friends Groups' activities and that it be done within the next two weeks.

Ms. Stewart noted that this part of the motion does not mean it has to come back to the Board.

Chairman Porter suggested dealing with this portion by itself. He asked if there's a second to that motion.

Mr. Cordasco asked if the Board wasn't going to hear the entire content.

Ms. Stewart proceeded with the next part of her motion as follows:

that the Executive Director cause an internal review of employee time and travel regarding Foundation activities for any employee involved with the Foundation to ensure no funds were improperly expended and report to the Board in January that the review has been done and that any appropriate action has been taken;

Ms. Stewart noted that it's an internal thing and the Board doesn't need to know all the details – just that it's happened.

Ms. Stewart proceeded to the third part of her motion as follows:

that the Executive Director, in consultation with the Attorney General's Office, review the job description of position APR0780AJO to determine if any job duties need to be amended and make such amendments and report to the Board in January.

Ms. Stewart proceeded to the fourth part of her motion as follows:

and that the Executive Director review timekeeping procedures in effect for any employees regularly having contact with the Foundation to ensure that records clearly reflect appropriate time spent on state activities. This motion has nothing to do with personnel actions.

Ms. Stewart stated she is not interested in personnel actions. She is interested in dealing with the report the Board received, making sure the Board has responded to each of the things that were raised, and to keep it as focused as possible and to ensure the Board has taken a close look at it. From the Board's discussion it doesn't appear she had sufficient support for any other kind of review. The Board is directing them to look at these things. The only person she feels the Board has the authority to give direction to

is the Executive Director.

Chairman Porter asked if anyone wanted to divide out those four parts.

Mr. Cordasco noted that Ms. Stewart had read that just as discussion. He wanted to discuss the two-week time line. Thanksgiving is coming up next week. By asking for two weeks is really more like 7 days. He would want more thought put into it than that short of a period of time and getting it right. He asked if that can't be tied to the January Board meeting time line.

Chairman Porter agreed. He would like to see these things prior to their going out to everyone. In any event, two weeks is too short.

Ms. Stewart stated that by changing that timeframe it is understood that Mr. Travous is aware of the advice given to the Board and that if he is aware of or has reason to believe something is going on that shouldn't be, he needs to take action prior to when the policy comes out.

Mr. Woodling asked if both Foundation and Friend Groups were mentioned in the first part.

Ms. Stewart responded affirmatively.

Mr. Woodling stated he questioned that because this Interoffice Memorandum the Board was provided with does not mention that and their concern only mentions the Foundation and the Parks Board.

Ms. Stewart responded she would be willing to limit it to the Foundation.

Chairman Porter stated that the Board knows it needs to look at that.

Mr. Scalzo asked why the Board can't just ask the Executive Director to look into this and get back to the Board.

#### **Board Action**

**Ms. Stewart:** I move that the Executive Director prepare, in consultation with the Attorney General's Office, a policy setting forth the scope of appropriate and inappropriate uses of state employee time, travel, and state property relating to Foundation activities; that the Executive Director cause an internal review of employee time and travel regarding Foundation activities for any employee involved with the Foundation to ensure no funds were improperly expended and that any appropriate actions have been taken; that the Executive Director, in consultation with the Attorney General's Office, review the job description for position APR0780AJ0 to determine if any job duties need to be amended and make such amendments and report to the Board; and that the Executive Director review timekeeping procedures in effect for any employee regularly having contact with the Foundation to ensure that records clearly reflect appropriate time spent on state activities, and that the Director report back on all of these items at the January Board meeting in writing on these issues and that a copy of the proposed policy be submitted to the Board for review and discussion at the January meeting. This motion has nothing to do with personnel actions.

Chairman Porter clarified that, relating to the time issue, the Executive Director will clearly establish that the employees are putting the full time in they are being paid for on behalf of ASP.

Mr. Cordasco seconded the motion.

Mr. Travous noted he does not have a problem with any of this. He suggested that sometimes the devil's in the details. If there is any snag in consultation with Ms. Hernbrode he will advise the Board right away.

Mr. Scalzo stated he does not like the use of the word "inappropriate" activities in the first portion of the motion. It is a sense of condemning someone for something. He does not think the motion should say "inappropriate activities". We can look at activities. But to say "inappropriate" immediately makes it appear there was wrongdoing.

Chairman Porter noted that this is in response to a formal statement from the AG's Office putting the Board on notice that they are viewing some of the things as being inappropriate by the agency rather than the employee. He asked Ms. Boland if there is a better term than "inappropriate".

Ms. Boland responded that "appropriate" would be fine and that "inappropriate" could be dropped.

Both the maker and the second to the motion accepted the change.

Mr. Scalzo asked why the Executive Director is making a report to the Board in writing rather than verbally.

Ms. Stewart responded that she felt there needed to be a record that the Board has done this. This is a serious matter.

Mr. Scalzo noted that it will be in the Minutes if it's a verbal report.

Ms. Stewart stated she would like to have a chance to read it prior to the meeting.

Chairman Porter added that the Board has had a written opinion given to them by the AG. The Board almost are duty-bound to have some kind of written record. He tends to agree.

Mr. Woodling asked why, in the motion, was an individual singled out.

Ms. Stewart responded that only one position requires a person to be doing some activities that, based on the information received, might not be allowed. She wants to be sure that the agency is not telling one of our employees to do these things when some of these things may or may not be appropriate. That's why she wants the AG to be involved in reviewing them to be sure that everything is lawful.

Chairman Porter called for a vote on the motion on the floor. The motion carried with Mr. Scalzo voting Nay.

Mr. Scalzo stated he is voting no because he does not think the Board's role is to do employee evaluations. He believes the Board has stepped over its bounds regarding their role. The Board are policy makers; not Human Resource experts.

Ms. Stewart responded that the Board is not performing any employee evaluations. We've directed the Executive Director to do it.

Mr. Cordasco stated he wanted to confirm the Board's appreciation of the Foundation and their efforts to make ASP a better agency.

Chairman Porter stated that Mr. Cordasco's point is well-taken. This has been an

unpleasant experience. There was no way to avoid it. It's part of the growing pains. He stated he does not want anyone leaving this meeting with the idea that this was some horrible, destructive issue. It's something we have to deal with and do it right. This has been an important session; it probably needed to be dealt with; the Board has dealt with it. Hopefully in January we can come back in here to get the report and go about our business and get the Foundation doing what it should be doing, and we're doing what we're supposed to do. He asked that no one leave this meeting with bad feelings. This is a great organization. There will always be issues and growing pains. Sometimes we'll do things that are wrong or stupid and we'll have to go back and make some corrections. That does not mean anyone behaved other than in good faith and with motivation. Throughout this meeting he has listened for the slightest hint of any kind of criticism or any kind of indication that any particular employee had done anything remotely wrong or inappropriate. He heard discussion of the issue of whether the job itself had issues and might have been something we should not have done or done differently. The Executive Consultant has, in fact, put a tremendous amount of effort into her job.

Ms. Stewart stated, as the maker of the motion, she wanted to make it clear that she believes Friends groups are very important and the Foundation is important. As an attorney who worked in the AG's Office for a number of years, she knows how things go astray if we don't follow the letter of the law. She doesn't want the Board to be the center of a newspaper exposé or Auditor General investigation. That's why the Board needs to be sure they are doing things properly.

Chairman Porter then turned to Agenda Item F.6.

## **F. DISCUSSION ITEMS**

### **6. Strategy**

Mr. Travous reported that he and Mr. Cordasco had a successful meeting with Ms. Lori Faeth. Since then he has had discussions with three of the top people on the Governor's staff. The word that things need to be fixed is reverberating around. He met with the Chief of Budget two days ago. His boss is Executive Consultant to the Governor. Yesterday he met with another member of her Executive Staff. He was told it had an effect. The one thing that can impact us next year is that they passed a large tax cut. Even though revenues are up, they need to get \$500M back. He expressed his appreciation to Mr. Cordasco for going with him to the initial meeting.

Mr. Travous noted that he had distributed a book to the Board. Mr. Stahl has been going to the parks and photographing problems. The Capital Budget is included at the back.

## **G. EXECUTIVE STAFF UPDATES**

### **1. Update on Marketing**

A written report was included in the Board Packet.

### **2. Update on 50<sup>th</sup> Anniversary**

Mr. Ream reported that the 50<sup>th</sup> Anniversary celebrations are moving along very well. There have been 4 successful events (Tubac, Red Rock, Lost Dutchman, and next week at the Verde River Greenway to dedicate the Lime Kiln trail). Two years ago he

promised that when Mr. Porter was Board Chairman a new park would be opened. It isn't the one he wanted, but Sonoita Creek Natural Area was opened. He noted that we are recreating the opening of Sonoita Creek Natural Area by the Director presenting Chairman Porter with a plaque similar to the bronze plaque that hangs in the Visitor Center.

Mr. Ream thanked the staff, volunteers, and Foundation for helping with each of the 50<sup>th</sup> Anniversary events. Each event gets a little easier.

**J. CALL TO THE PUBLIC**

All public had left the meeting.

**K. TIME AND PLACE OF NEXT MEETING AND CALL FOR FUTURE AGENDA ITEMS**

- 1. Staff recommends that the next Arizona State Parks Board Meeting be held in Phoenix, AZ on January 18, 2007.**
- 3. Board members may wish to discuss issues of concern and request staff to place specific items on future Board meeting agendas.**

Ms. Stewart noted that some time ago \$250,000 was left to ASP from a will. There were discussions about what to do with it. She requested an update in January.

Ms. Hernbrode thanked the Board and staff. This has been a difficult Parks Board meeting. She especially wanted to thank Mr. Travous for his willingness to work with her on this issue.

**K. ADJOURNMENT**

Mr. Cordasco made a motion to adjourn. Mr. Woodling seconded the motion. The Chairman adjourned the meeting at 1:30 p.m.

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**APPROVED:**

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William C. Porter, Chairman

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Kenneth E. Travous, Executive Director